

David Krieger, Esq.
Nevada Bar No. 9086
Shawn Miller, Esq.
Nevada Bar No. 7825
KRIEGER LAW GROUP, LLC
2850 W. Horizon Ridge Parkway
Suite 200
Henderson, Nevada 89052
Phone: (702) 848-3855
Email: dkrieger@kriegerlawgroup.com
Email: smiller@kriegerlawgroup.com

Attorney for Plaintiff
RICK A. ERDMANN

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

	:	Civil Action No.:
RICK A. ERDMANN,	:	
	:	
Plaintiff,	:	COMPLAINT FOR DAMAGES
	:	PURSUANT TO THE FAIR
v.	:	CREDIT REPORTING ACT, 15
	:	U.S.C. § 1681, ET SEQ.
	:	
GOLDMAN SACHS & CO, LLC,	:	JURY TRIAL DEMANDED
	:	
Defendant.	:	

INTRODUCTION

1. The United States Congress has found the banking system is dependent upon fair and accurate credit reporting. Inaccurate credit reports directly impair the efficiency of the banking system, and unfair credit reporting methods undermine the public confidence, which is essential to the continued functioning of the banking system. Congress enacted the Fair Credit

1 Reporting Act, 15 U.S.C. § 1681 *et seq.* (“FCRA”), to ensure fair and accurate
2 reporting, promote efficiency in the banking system, and protect consumer
3 privacy. The FCRA seeks to ensure consumer reporting agencies exercise
4 their grave responsibilities with fairness, impartiality, and a respect for the
5 consumer’s right to privacy because consumer reporting agencies have
6 assumed such a vital role in assembling and evaluating consumer credit and
7 other information on consumers. The FCRA also imposes duties on the
8 sources that provide credit information to credit reporting agencies, called
9 “furnishers.”
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13 2. Through a tightly wound set of procedural protections, the FCRA protects
14 consumers from the material risk of harms that otherwise flow from inaccurate
15 reporting. Thus, through the FCRA, Congress struck a balance between the
16 credit industry’s desire to base credit decisions on accurate information, and
17 consumers’ substantive right to protection from damage to reputation, shame,
18 mortification, and the emotional distress that naturally follows from
19 inaccurate reporting of a consumer’s fidelity to his or her financial
20 obligations.
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24 3. RICK A. ERDMANN (“Plaintiff”), by Plaintiff’s attorneys, brings this action
25 against GOLDMAN SACHS & CO, LLC (“Goldman”) for violations of the
26 FCRA, as set forth below.
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JURISDICTION AND VENUE

- 1
- 2 4. This Court has federal question jurisdiction because this case arises out of
- 3 violations of the FCRA. 15 U.S.C. § 1681 *et seq.*; 28 U.S.C. § 1331; *Smith v.*
- 4 *Community Lending, Inc.*, 773 F.Supp.2d 941, 946 (D. Nev. 2011).
- 5
- 6 5. Venue is proper in the United States District Court for the District of Nevada
- 7 pursuant to 28 U.S.C. § 1391(b) because Plaintiff was, at all times herein, a
- 8 resident of Clark County, Nevada and because Defendant is subject to
- 9 personal jurisdiction in Clark County, Nevada; conducts business in Clark
- 10 County, Nevada; the events giving rise to this action occurred in Clark
- 11 County, Nevada; and Defendant is registered with the Nevada Secretary of
- 12 State.
- 13
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PARTIES

- 16
- 17 6. Plaintiff is a natural person residing in the County of Clark, State of Nevada. In
- 18 addition, Plaintiff is a “consumer” as that term is defined by 15 U.S.C. §
- 19 1681a(c).
- 20
- 21 7. Goldman is a corporation doing business in the State of Nevada.
- 22
- 23 8. Goldman is a “user” as that term is intended under the FCRA. Anyone
- 24 receiving a consumer report and applying it to a consumer is a user and must
- 25 comply with the FCRA whether the user obtains or uses the report directly or
- 26 indirectly. *Ross v. Res-Care, Inc.*, 2012 WL 3096093 (W.D. Ken. July 30,
- 27 2012).
- 28

9. Unless otherwise indicated, the use of Defendant's name in this Complaint includes all agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers of Defendant.

Goldman Impermissibly Pulled Plaintiff's Credit Information

10. Plaintiff is informed and believes, and thereon alleges, that Goldman acquired Plaintiff's credit information through an unauthorized inquiry of Plaintiff's "consumer report" as that term is defined by 15 U.S.C. § 1681a(d)(1).

11. Upon review of Plaintiff's ChexSystems credit report dated June 26, 2020, Plaintiff discovered Goldman submitted unauthorized credit report inquiries for ChexSystems for unspecified reasons.

12. Specifically, Goldman submitted inquiries on August 9 and November 29, 2019, as seen below.

Inquirer: TRANSUNION LLC; 555 W ADAMS ST, CHICAGO, IL 60661
Phone Number: 800.916.8800

On Behalf Of: GOLDMAN SACHS BANK USA; 200 WEST STREET, NEW YORK, NY 10282
Phone Number: 212.902.1000

Inquiry Date: 11/29/2019

SSN/ID Provided: XXX-XX-3384

Inquirer: TRANSUNION LLC; 555 W ADAMS ST, CHICAGO, IL 60661
Phone Number: 800.916.8800

On Behalf Of: GOLDMAN SACHS BANK USA; 200 WEST STREET, NEW YORK, NY 10282
Phone Number: 212.902.1000

Inquiry Date: 08/09/2019

SSN/ID Provided: XXX-XX-3384

1 13. However, 15 U.S.C. § 1681b delineates the *only* permissible uses of, or access
2 to, consumer reports.

3 14. Goldman had no permissible use of or access to Plaintiff's consumer reports.

4 15. Goldman's inquiry of Plaintiff's consumer report information for the purpose
5 of collection or account review, without Plaintiff's consent, falls outside the
6 scope of any permissible use or access included in 15 U.S.C. § 1681b.
7

8 16. Plaintiff had no account or business transaction with Goldman at the time
9 Goldman requested Plaintiff's credit information.
10

11 17. Goldman accessed Plaintiff's credit report without consent or knowledge of
12 Plaintiff.
13

14 18. Obtaining a report without a permissible purpose constitutes an invasion of a
15 legally protected interest in the confidentiality of Plaintiff's sensitive personal
16 information. The harm may be intangible, but it is very real and concrete.
17

18 19. The prohibition on impermissible credit "pulls" is also a substantive
19 provision, not procedural, in that it is a direct protection for the privacy of
20 Plaintiff's information.
21

22 20. Accessing a consumer report without a permissible purpose would be similar
23 to several common law torts that fall under the umbrella of invasion of
24 privacy, such as the public disclosure of private facts or intrusion upon
25 seclusion (in this case, intrusion on financial information).
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1 21. Goldman never notified Plaintiff of the illegal and impermissible access.

2 22. Goldman obtained Plaintiff's credit report and/or credit information under
3 false pretenses by falsely representing that the purpose of such access was for
4 collection or account review notwithstanding that the account no longer
5 existed.
6

7 23. Goldman had no legitimate business need for Plaintiff's credit report.
8

9 24. Goldman willfully and negligently violated the Fair Credit Reporting Act
10 through its above conduct.
11

12 25. Specifically, Goldman violated 15 U.S.C. § 1681b by using Plaintiff's
13 consumer report for an impermissible use that falls outside the scope of 15
14 U.S.C. § 1681b.
15

16 **FIRST CAUSE OF ACTION**
17 **VIOLATION OF THE FAIR CREDIT REPORTING ACT**
18 **15 U.S.C. § 1681 *ET SEQ.* (FCRA)**

19 26. Plaintiff incorporates by reference all the above paragraphs of this Complaint
20 as though fully stated herein.
21

22 27. Plaintiff incorporates by reference all the above paragraphs of this Complaint
23 as though fully stated herein.
24

25 28. Obtaining a report without a permissible purpose constitutes an invasion of a
26 legally protected interest in the confidentiality of Plaintiff's sensitive personal
27 information. The harm may be intangible, but it is very real and concrete.
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1 29. The prohibition on impermissible credit “pulls” is also a substantive
2 provision, not procedural, in that it is a direct protection for the privacy of a
3 consumer’s information.
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5 30. Accessing a consumer report without a permissible purpose would be similar
6 to several common law torts that fall under the umbrella of invasion of
7 privacy, such as the public disclosure of private facts or intrusion upon
8 seclusion (in this case, intrusion on financial information).
9

10 31. Goldman’s actions were willful under 15 U.S.C. §§ 1681n because Goldman
11 was aware of the FCRA’s prohibitions on impermissibly pulling consumers’
12 credit reports. *See Doe v. Sentech Employment Services, Inc.*, E.D. Mich. May
13 16, 2016) (*citing Singleton v. Domino's Pizza, LLC*, 2012 WL 245965, *4 (D.
14 Md. Jan. 25, 2012) (“[A]ssertions that a defendant is aware of the FCRA, but
15 failed to comply with its requirements, are sufficient to support an allegation
16 of willfulness and to avoid dismissal.”).
17
18
19

20 32. Plaintiff suffered an invasion of a legally protected interest when Goldman
21 accessed Plaintiff’s highly confidential personal information on Plaintiff’s
22 credit report at a time when Goldman had no right to do so, an invasion of
23 Plaintiff’s right to privacy. The FCRA, through 15 U.S.C. § 1681b, protects
24 consumers like Plaintiff from this precise behavior.
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1 33. Plaintiff has a common law right to keep personal credit information private.

2 *E.g.*, Samuel D. Warren & Louis D. Brandeis, *The Right to Privacy*, 4 Harv.

3 L. Rev. 1155, 193 (1890). Congress sought to further protect that right by

4 enacting the FCRA. Indeed, the common law tort of intrusion upon seclusion

5 is preempted by the FCRA, and the FCRA expressly provides that Congress

6 made the following finding: “There is a need to insure that consumer reporting

7 agencies exercise their grave responsibilities with fairness, impartiality and a

8 respect for the consumer’s right to privacy.” 15 U.S.C. § 1681a(4).

9 34. Plaintiff was affected personally because when Plaintiff’s realized the

10 behavior of Goldman described above (pulling Plaintiff’s credit report without

11 any authorization), Plaintiff felt that Plaintiff’s privacy was invaded and that

12 Plaintiff’s personal and private information was disclosed to Goldman, who

13 had no right to Plaintiff’s private information.

14 35. The injury suffered by Plaintiff is concrete because Goldman’s violation of

15 15 U.S.C. § 1681b caused Plaintiff to suffer an invasion of privacy. In

16 enacting 15 U.S.C. § 1681b, Congress specifically sought to protect

17 consumers from invasions of privacy and created restrictions on access to

18 consumers’ sensitive financial information in their credit reports.

19 36. Further, Goldman increased the risk that Plaintiff will be injured if there is a

20 data breach on Goldman’s computer systems by acquiring additional highly

1 sensitive information about Plaintiff and saving that information onto its
2 computer systems. Data breaches are increasingly common (see, e.g., Data
3 Breaches, Krebs, available at [http://krebsonsecurity.com/category/data-](http://krebsonsecurity.com/category/data-breaches/)
4 [breaches/](http://krebsonsecurity.com/category/data-breaches/)), and financial institutions like Goldman are frequent targets of
5 cybercriminals (see, e.g., The Top 8 Largest Data Breaches in the Financial
6 Services Industry, Association of Certified Financial Crime Specialists,
7 available at [http://www.acfcs.org/the-top-8-largest-data-breaches-in-the-](http://www.acfcs.org/the-top-8-largest-data-breaches-in-the-financial-services-industry/)
8 [financial-services-industry/](http://www.acfcs.org/the-top-8-largest-data-breaches-in-the-financial-services-industry/)).

9
10
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12 37. As such, Plaintiff is entitled to the remedies available under 15 U.S.C. §
13 1681n and 15 U.S.C. § 1681o.

14
15 **PRAYER FOR RELIEF**

16 Plaintiff respectfully requests the Court grant Plaintiff the following relief
17 against Defendant:

18
19 **FIRST CAUSE OF ACTION**
20 **VIOLATION OF THE FAIR CREDIT REPORTING ACT**
21 **15 U.S.C. § 1681 ET SEQ. (FCRA)**

- 22
- 23 • an award of actual damages pursuant to 15 U.S.C. § 1681n(a)(1);
 - 24 • award of statutory damages pursuant to 15 U.S.C. § 1681n(a)(1);
 - 25 • an award of punitive damages as the Court may allow pursuant to 15 U.S.C.
26 § 1681n(a)(2);
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- award of costs of litigation and reasonable attorney's fees, pursuant to 15 U.S.C. § 1681n(a)(3), and 15 U.S.C. § 1681(o)(a)(1) against Defendant for each incident of negligent noncompliance of the FCRA; and
- any other relief the Court may deem just and proper.

TRIAL BY JURY

38. Pursuant to the Seventh Amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Dated: August 22, 2020

Respectfully submitted,

By /s/ David Krieger, Esq.
David Krieger, Esq.
Nevada Bar No. 9086
Shawn Miller, Esq.
Nevada Bar No. 7825
KRIEGER LAW GROUP, LLC
2850 W. Horizon Ridge Parkway
Suite 200
Henderson, Nevada 89052
Phone: (702) 848-3855
Email: dkrieger@kriegerlawgroup.com
Email: smiller@kriegerlawgroup.com